

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

BASF AGRO B.V., MERIAL LIMITED,
and MERIAL SAS

Plaintiffs,

v.

CIPLA LIMITED, *et al.*,

Defendants, and

VELCERA, INC. and FIDOPHARM, INC.

Intervenors.

Civil Case No. 3:07-cv-00125-CDL



EXHIBIT B

**TO INTERVENORS VELCERA, INC. AND FIDOPHARM, INC.'S
MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTIONS
FOR TEMPORARY RESTRAINING ORDER AND STATUS CONFERENCE**

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

BASF AGRO B.V., et al.

Plaintiffs,

v.

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and

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Civil Case No. 3:07-CV-00125-CDL

DECLARATION OF DENNIS STEADMAN

I, Dennis Steadman, state as follows:

1. I am the Chief Executive Officer of Velcera, Inc., the parent company of FidoPharm, Inc. I have personal knowledge of the facts set forth in this declaration and, if called upon, could testify truthfully and accurately thereto.

2. Velcera began marketing and selling its original PetArmor® Plus products in April 2011 and continued sales until August 19, 2011, when this Court's permanent injunction went into effect, enjoining Velcera from "from selling, causing to be sold, offering for sale, and causing to be offered for sale in the United States veterinary products for which Cipla participated in the development, manufacture, and/or packaging, which products contain fipronil and methoprene, regardless of brand name, including but not limited to the veterinary products

[REDACTED]

Protektor Plus, PetArmor Plus, TrustGard Plus and Velcera Fipronil Plus.” Velcera received no shipment of any PetArmor® Plus from Cipla Limited after June 21, 2011.

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. The entry of an injunction, preventing Velcera from selling its new PetArmor® Plus products indefinitely, would cause severe hardship to Velcera. The flea-and-tick season runs from March to September. To ensure adequate growth of a new flea-and-tick product such as PetArmor® Plus, it is critical to enter the market during the flea-and-tick season. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. The hardship to Velcera would be particularly severe because Velcera currently has only two marketed products: PetArmor® (fipronil-only product) and a heartworm preventive product. [REDACTED]

[REDACTED]

13. Indeed, PetArmor® Plus will be a critical addition to Velcera's product line because, [REDACTED] it is expected to be the only supported generic fipronil plus s-methoprene product on the market. If the launch of PetArmor® Plus were delayed due to an injunction—and, in the meantime, another generic manufacturer introduced its generic fipronil plus s-methoprene product first—Velcera would lose a significant first-to-market advantage. Generally speaking, the first generic on the market retains its status as generic market leader even after other generics enter to the market. To date, I am aware of an EPA filing for at least one other manufacturer that could enter the market with a generic fipronil plus s-methoprene flea-and-tick product in the near future.



14. Finally, an injunction also would damage Velcera's relationship with its customers (e.g., retailers), even if that injunction were later reversed. As a start-up company, Velcera is still building its reputation among retail distributors. Thus, entry of a second order barring Velcera from launching products would likely brand Velcera as an undependable source.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Yardley, Pennsylvania this 30th day of April, 2012.


Dennis Steadman